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DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

In re Application of
BAUER et al. :
Application No.: 10/598,143 : DECISION ON
PCT No.: PCT/DE05/00215 :
Int. Filing Date: 09 February 2005 : PETITION UNDER
Priority Date: 18 February 2004 :
Attorney Docket No.:1431.170.101/FIN561PCT : 37 CFR 1.137(b)
For: SEMICONDUCTOR COMPONENT :
HAVING A STACK OF SEMICONDUCTOR :
CHIPS AND METHOD FOR PRODUCING :
THE SAME :
:

This decision is on a petition to revive under 37 CFR 1.137(b) and the submission of a declaration, filed in the United States Patent and Trademark Office on 18 November 2009 in the above referenced application.

BACKGROUND

On 18 August 2006, within the expiration of the thirty month period, applicant filed a transmittal letter concerning a filing under 35 U.S.C. 371 directed to PCT/DE05/00215, accompanied by the basic national fee. The papers were assigned U.S. application no. 10/598,143 as the national stage application of PCT/DE05/00215.

On 02 April 2007, the Office mailed Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 11 May 2007, applicant submitted a response to the Notification including a copy of the declaration executed by the inventors.

On 09 July 2008, a Notification of Defective Response was mailed, indicating that the declaration did not comply with 37 CFR 1.497(a) and (b) in that it "identifies the wrong PCT number." Applicant was given ONE month within which to respond or the time remaining under the Notification of Missing Requirements.

On 08 August 2008, applicant responded with the submission of a newly executed declaration. On 19 September 2008, a decision was mailed to applicant indicating that the

declaration was defective because it identified the wrong PCT number (PCT/IB05/00215) and it appeared to be a composite declaration. The application was abandoned for failure to provide a proper reply to the Notification of Defective Response.

On 26 November 2008, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 18 November 2009, applicant filed the instant petition to revive the application along with a declaration executed by the inventors.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

The required petition fee of \$1620 was paid. The surcharge for filing the declaration after the thirty month period was also paid.

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant provided the proper reply with the submission of a newly executed declaration, filed on 18 November 2009. The declaration is acceptable because it is a complete declaration, in compliance with 37 CFR 1.497(a) and (b), identifying the correct international application PCT/DE05/00215 and executed by all inventors. The petition to revive is granted.

CONCLUSION

For the reasons set forth above, the petition to revive under 37 CFR 1.137(b) is GRANTED. The declaration submitted on 18 November 2009 is acceptable as filed.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 18 November 2009.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Administration
Telephone: 571-272-3286